

AMENDED IN ASSEMBLY JUNE 21, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1423

Introduced by Senator Figueroa

February 22, 2006

An act to add Section ~~2265~~ 2023 to the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1423, as amended, Figueroa. Laser procedures.

Existing law, the Medical Practice Act, creates the Medical Board of California that is responsible, through its Division of Licensing, for issuing a physician and surgeon's certificate to qualified applicants. ~~Under existing law, it is a crime to violate the regulatory provisions of the Medical Practice Act~~ Existing law also creates the Board of Registered Nursing to license and regulate registered nurses and associated professions.

~~This bill would permit a physician and surgeon to delegate the performance or administration of an elective cosmetic medical procedure or treatment, as defined, using a laser or intense pulse light device only to a licensed health care provider acting within the scope of his or her license under the supervision, as defined, of a physician and surgeon. The bill would impose other specified duties on a physician and surgeon who delegates the performance or administration of an elective cosmetic medical procedure or treatment to a licensed health care provider under these provisions~~require the Medical Board of California, in conjunction with the Board of

Registered Nursing, to evaluate and study issues surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by health care practitioners, and to report to the Legislature by January 1, 2008. The bill would require each board to adopt regulations consistent with their existing regulatory authority in that regard.

~~Because the violation of the requirements added to the Medical Practice Act would be a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 2023 is added to the Business and*
- 2 *Professions Code, to read:*
- 3 *2023. (a) The board, in conjunction with Board of Registered*
- 4 *Nursing, shall evaluate and study issues surrounding the use of*
- 5 *laser or intense light pulse devices for elective cosmetic*
- 6 *procedures by health care practitioners. The evaluation and*
- 7 *study shall include, but need not be limited to, all of the*
- 8 *following:*
- 9 *(1) The appropriate level of physician supervision needed.*
- 10 *(2) The appropriate level of training to ensure competency.*
- 11 *(3) Guidelines for standardized procedures and protocols that*
- 12 *address, at a minimum, all of the following:*
- 13 *(A) Patient selection.*
- 14 *(B) Patient education, instruction, and informed consent.*
- 15 *(C) Use of topical agents.*
- 16 *(D) Procedures to be followed in the event of foreseeable*
- 17 *complications or side effects from the treatment.*
- 18 *(E) Procedures governing emergency and urgent care*
- 19 *situations.*

1 (4) *Who should be authorized to purchase and own laser*
2 *equipment.*

3 (b) *To the extent that the board and the Board of Registered*
4 *Nursing have the authority to promulgate regulations to*
5 *implement changes determined to be necessary as a result of the*
6 *evaluation and study, those regulations shall be developed and*
7 *implemented.*

8 (c) *The boards shall report to the Legislature on their*
9 *findings, conclusions, and actions on or before January 1, 2008.*

10 ~~SECTION 1. Section 2265 is added to the Business and~~
11 ~~Professions Code, to read:~~

12 ~~2265. (a) A physician and surgeon shall delegate the~~
13 ~~performance or administration of an elective cosmetic medical~~
14 ~~procedure or treatment utilizing a laser or intense pulse light~~
15 ~~device only to a~~

16 ~~licensed health care provider acting within the scope of his or~~
17 ~~her license and under the supervision of a physician and surgeon.~~

18 ~~(b) The physician and surgeon shall personally observe all~~
19 ~~elective cosmetic medical procedures or treatments delegated to~~
20 ~~a licensed health care provider under this section until he or she~~
21 ~~is assured of the provider's competency.~~

22 ~~(c) The physician and surgeon shall establish written~~
23 ~~standardized procedures or protocols for the care of a patient~~
24 ~~when he or she has delegated the performance of an elective~~
25 ~~cosmetic medical procedure or treatment to a licensed health care~~
26 ~~provider under this section.~~

27 ~~(d) The physician and surgeon shall review, countersign, and~~
28 ~~date a minimum of 10 percent of medical records of patients~~
29 ~~within 30 days of the performance or administration of the~~
30 ~~elective cosmetic medical procedure or treatment by the licensed~~
31 ~~health care provider to whom it was delegated under this section.~~

32 ~~(e) The physician and surgeon shall have continuing~~
33 ~~responsibility to follow the progress of the patient and to make~~
34 ~~sure that the licensed health care provider to whom the~~
35 ~~performance or administration of the elective cosmetic medical~~
36 ~~procedure or treatment was delegated under this section does not~~
37 ~~function autonomously.~~

38 ~~(f) The physician and surgeon shall be responsible for all~~
39 ~~medical services provided by the licensed health care provider~~
40 ~~under his or her supervision to whom the performance or~~

1 ~~administration of the elective cosmetic medical procedure or~~
2 ~~treatment was delegated under this section.~~

3 ~~(g) Nothing in this section shall excuse the physician and~~
4 ~~surgeon from the primary and continued responsibility for the~~
5 ~~welfare of the patient.~~

6 ~~(h) The following definitions apply for purposes of this~~
7 ~~section:~~

8 ~~(1) “Elective cosmetic medical procedure or treatment” means~~
9 ~~a medical procedure or treatment that is performed to alter or~~
10 ~~reshape a normal structure of the body solely to improve the~~
11 ~~patient’s appearance. “Elective cosmetic medical procedure or~~
12 ~~treatment” does not include a medical procedure or treatment that~~
13 ~~constitutes cosmetic surgery or reconstructive surgery as defined~~
14 ~~in Section 1367.63 of the Health and Safety Code.~~

15 ~~(2) “Supervision” means the physician and surgeon, or a~~
16 ~~physician and surgeon he or she designates, shall be available for~~
17 ~~consultation in person or by electronic communication at all~~
18 ~~times when the elective cosmetic medical procedure or treatment~~
19 ~~is being performed or administered by the licensed health care~~
20 ~~provider and shall be able to arrive on the premises within one~~
21 ~~hour.~~

22 ~~SEC. 2.— No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the only costs that may be incurred by a local agency or school~~
25 ~~district will be incurred because this act creates a new crime or~~
26 ~~infraction, eliminates a crime or infraction, or changes the~~
27 ~~penalty for a crime or infraction, within the meaning of Section~~
28 ~~17556 of the Government Code, or changes the definition of a~~
29 ~~crime within the meaning of Section 6 of Article XIII B of the~~
30 ~~California Constitution.~~